

SIXTY-SIXTH DAY - APRIL 22, 2003**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
FIRST SESSION****SIXTY-SIXTH DAY**

Legislative Chamber, Lincoln, Nebraska
Tuesday, April 22, 2003

PRAYER

The prayer was offered by Monsignor Herbek, St. Mary's Catholic Church, David City, Nebraska.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Combs who was excused until she arrives.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixty-fifth day was approved.

GENERAL FILE

LEGISLATIVE BILL 759. Title read. Considered.

SPEAKER BROMM PRESIDING

The Standing Committee amendment, AM1142, printed separately and referred to on page 1155, was considered.

Senator Landis requested a division of the question on the Standing Committee amendment.

The Chair sustained the division of the question.

The first Standing Committee amendment is as follows:
FA1326

3 "Section 1. Section 77-2602, Revised Statutes

4 Supplement, 2002, is amended to read:

5 77-2602. (1) Every person engaged in distributing or

6 selling cigarettes at wholesale in this state shall pay to the Tax

7 Commissioner of this state a special privilege tax. This shall be
8 in addition to all other taxes. It shall be paid prior to or at
9 the time of the sale, gift, or delivery to the retail dealer in the
10 several amounts as follows: On each package of cigarettes
11 containing not more than twenty cigarettes, sixty-four cents per
12 package; ~~until October 1, 2004, and thirty-four cents per package~~
13 ~~commencing October 1, 2004;~~ and on packages containing more than
14 twenty cigarettes, the same tax as provided on packages containing
15 not more than twenty cigarettes for the first twenty cigarettes in
16 each package and a tax of one-twentieth of the tax on the first
17 twenty cigarettes on each cigarette in excess of twenty cigarettes
18 in each package. Commencing July 1, 1994, and continuing until
19 ~~July 1, 2009~~ October 1, 2004, the State Treasurer shall place the
20 equivalent of twenty-one cents of such tax less three million
21 dollars each fiscal year of proceeds of such tax in the General
22 Fund. ~~Commencing October 1, 2004, the State Treasurer shall place~~
23 ~~the equivalent of forty-nine cents of such tax less three million~~
24 ~~dollars each fiscal year of proceeds of such tax in the General~~
25 ~~Fund.~~ Commencing July 1, 2009, the State Treasurer shall place the
26 equivalent of ~~twenty-one~~ forty-nine cents of such tax in the
27 General Fund. For purposes of this section, the equivalent of a
28 specified number of cents of the tax shall mean that portion of the
29 proceeds of the tax equal to the specified number divided by the
30 tax rate per package of cigarettes containing not more than twenty
31 cigarettes. The State Treasurer shall distribute the remaining
32 proceeds of such tax in the following order:
33 (a) First, beginning July 1, 1980, the State Treasurer
34 shall place the equivalent of one cent of such tax in the Nebraska
35 Outdoor Recreation Development Cash Fund. For fiscal year
36 distributions occurring after FY1998-99, the distribution under
37 this subdivision shall not be less than the amount distributed
38 under this subdivision for FY1997-98. Any money needed to increase
39 the amount distributed under this subdivision to the FY1997-98
40 amount shall reduce the distribution to the General Fund;
41 (b) Second, beginning July 1, 1993, the State Treasurer
42 shall place the equivalent of three cents of such tax in the
43 Department of Health and Human Services Finance and Support Cash
44 Fund to carry out sections 81-637 to 81-640. For fiscal year
45 distributions occurring after FY1998-99, the distribution under
46 this subdivision shall not be less than the amount distributed
47 under this subdivision for FY1997-98. Any money needed to increase
48 the amount distributed under this subdivision to the FY1997-98
49 amount shall reduce the distribution to the General Fund;
50 (c) Third, beginning July 1, 2001, and continuing until
51 October 1, 2002, the State Treasurer shall place the equivalent of
52 1 five cents of such tax in the Building Renewal Allocation Fund.
53 Beginning October 1, 2002, and continuing until ~~October 1, 2004~~ all
54 the purposes of the Deferred Building Renewal Act have been
55 fulfilled, the State Treasurer shall place the equivalent of seven

5 cents of such tax in the Building Renewal Allocation Fund.
6 ~~Beginning October 1, 2004, and continuing until all the purposes of~~
7 ~~the Deferred Building Renewal Act have been fulfilled, the State~~
8 ~~Treasurer shall place the equivalent of five cents of such tax in~~
9 ~~the Building Renewal Allocation Fund.~~ The Legislature shall
10 appropriate each fiscal year all sums inuring to the fund, plus
11 interest earnings for the Task Force for Building Renewal to be
12 used to carry out its duties and to fulfill the purposes of the
13 Deferred Building Renewal Act. Unexpended balances existing at the
14 end of each fiscal year shall be, and are hereby, reappropriated.
15 For fiscal year distributions occurring after FY1998-99, the
16 distribution under this subdivision shall not be less than
17 five-sevenths of the amount distributed under this subdivision for
18 FY1997-98. Any money needed to increase the amount distributed
19 under this subdivision to five-sevenths of the FY1997-98 amount
20 shall reduce the distribution to the General Fund;
21 (d) Fourth, until October 1, 2002, and beginning on
22 October 1, 2004, the State Treasurer shall place the difference
23 between the equivalent of thirteen cents of such tax and the sum of
24 the amounts distributed pursuant to subdivisions (a) through (c)
25 and (f) through (h) of this subsection in a special fund to be
26 known as the Nebraska Capital Construction Fund. Beginning October
27 1, 2002, and continuing until October 1, 2004, the State Treasurer
1 shall place the difference between the equivalent of forty-three
2 cents of such tax and the sum of the amounts distributed pursuant
3 to subdivisions (a) through (c) and (f) through (i) of this
4 subsection in the Nebraska Capital Construction Fund;
5 (e) Fifth, beginning July 1, 1994, and continuing until
6 July 1, 2009, the State Treasurer shall place in the Municipal
7 Infrastructure Redevelopment Fund the sum of three million dollars
8 each fiscal year to carry out the Municipal Infrastructure
9 Redevelopment Fund Act. The Legislature shall appropriate the sum
10 of three million dollars each year for fiscal year 1994-95 through
11 fiscal year 2008-09;
12 (f) Sixth, beginning July 1, 2001, the State Treasurer
13 shall place the equivalent of two cents of such tax in the
14 Information Technology Infrastructure Fund;
15 (g) Seventh, beginning July 1, 2001, and continuing until
16 June 30, 2016, the State Treasurer shall place one million dollars
17 each fiscal year in the City of the Primary Class Development Fund.
18 If necessary, the State Treasurer shall reduce the distribution of
19 tax proceeds to the General Fund pursuant to this subsection by
20 such amount required to fulfill the one million dollars to be
21 distributed pursuant to this subdivision;
22 (h) Eighth, beginning July 1, 2001, and continuing until
23 June 30, 2016, the State Treasurer shall place one million five
24 hundred thousand dollars each fiscal year in the City of the
25 Metropolitan Class Development Fund. If necessary, the State
26 Treasurer shall reduce the distribution of tax proceeds to the

27 General Fund pursuant to this subsection by such amount required to
1 fulfill the one million five hundred thousand dollars to be
2 distributed pursuant to this subdivision; and
3 (i) Ninth, beginning October 1, 2002, and continuing
4 until October 1, 2004, the State Treasurer shall place the
5 equivalent of twenty-eight cents of such tax in the Cash Reserve
6 Fund.

7 (2) The Legislature hereby finds and determines that the
8 projects funded from the Municipal Infrastructure Redevelopment
9 Fund and the Building Renewal Allocation Fund are of critical
10 importance to the State of Nebraska. It is the intent of the
11 Legislature that the allocations and appropriations made by the
12 Legislature to such funds or, in the case of allocations for the
13 Municipal Infrastructure Redevelopment Fund, to the particular
14 municipality's account not be reduced until all contracts and
15 securities relating to the construction and financing of the
16 projects or portions of the projects funded from such funds or
17 accounts of such funds are completed or paid or, in the case of the
18 Municipal Infrastructure Redevelopment Fund, the earlier of such
19 date or July 1, 2009, and that until such time any reductions in
20 the cigarette tax rate made by the Legislature shall be
21 simultaneously accompanied by equivalent reductions in the amount
22 dedicated to the General Fund from cigarette tax revenue. Any
23 provision made by the Legislature for distribution of the proceeds
24 of the cigarette tax for projects or programs other than those to
25 (a) the General Fund, (b) the Nebraska Outdoor Recreation
26 Development Cash Fund, (c) the Department of Health and Human
27 Services Finance and Support Cash Fund, (d) the Municipal
1 Infrastructure Redevelopment Fund, (e) the Building Renewal
2 Allocation Fund, (f) the Information Technology Infrastructure
3 Fund, (g) the City of the Primary Class Development Fund, (h) the
4 City of the Metropolitan Class Development Fund, and (i) the Cash
5 Reserve Fund shall not be made a higher priority than or an equal
6 priority to any of the programs or projects specified in
7 subdivisions (a) through (i) of this subsection.

16 Sec. 13. Section 77-4008, Revised Statutes Supplement,
17 2002, is amended to read:

18 77-4008. (1) ~~Commencing on or after January 1, 1988, a~~ A
19 tax is hereby imposed upon the first owner of tobacco products to
20 be sold in this state. Prior to October 1, 2002, ~~and on and after~~
21 ~~October 1, 2004,~~ the tax shall be fifteen percent, and on and after
22 October 1, 2002, ~~and continuing until October 1, 2004,~~ the tax
23 shall be twenty percent; of (a) the purchase price of such tobacco
24 products paid by the first owner or (b) the price at which a first
25 owner who made, manufactured, or fabricated the tobacco product
26 sells the items to others. Such tax shall be in addition to all
27 other taxes.

1 (2) Whenever any person who is licensed under section
2 77-4009 purchases tobacco products from another person licensed

3 under section 77-4009, the seller shall be liable for the payment
4 of the tax.

5 (3) On and after October 1, 2002, and continuing until
6 October 1, 2004, the Tax Commissioner shall remit the amount
7 collected pursuant to this section to the State Treasurer, and the
8 State Treasurer shall credit three-fourths of such amount to the
9 General Fund and one-fourth of such amount to the Cash Reserve
10 Fund. On and after October 1, 2004, amounts collected shall be
11 used and distributed pursuant to section 77-4025.

Senator Hudkins asked unanimous consent to be excused until she returns.
No objections. So ordered.

Senator Chambers offered the following amendment to the first Standing
Committee amendment:

FA1329

Amend FA1326

On page 4, strike and show as stricken lines 5-11.

Senator Brown moved the previous question. The question is, "Shall the
debate now close?" The motion prevailed with 25 ayes, 3 nays, and 21 not
voting.

Senator Chambers moved for a call of the house. The motion prevailed with
38 ayes, 0 nays, and 11 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 15:

Baker	Friend	Kremer	Mossey	Redfield
Chambers	Hartnett	Louden	Price	Smith
Erdman	Jones	Maxwell	Quandahl	Thompson

Voting in the negative, 29:

Aguilar	Burling	Janssen	Pedersen, Dw.	Stuthman
Beutler	Byars	Jensen	Pederson, D.	Synowiecki
Bourne	Connealy	Johnson	Raikes	Tyson
Brashear	Cunningham	Landis	Schimek	Vrtiska
Bromm	Engel	McDonald	Schrock	Wehrbein
Brown	Foley	Mines	Stuhr	

Present and not voting, 3:

Cudaback	Kruse	Preister
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Excused and not voting, 2:

Combs

Hudkins

The Chambers amendment lost with 15 ayes, 29 nays, 3 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Pending.

STANDING COMMITTEE REPORTS

Judiciary

LEGISLATIVE BILL 613. Placed on General File.

LEGISLATIVE BILL 269. Placed on General File as amended.
Standing Committee amendment to LB 269:
AM0646

- 1 1. Strike section 10.
- 2 2. On page 4, lines 11 and 12, strike "26 U.S.C. 108(f)"
- 3 and insert "section 108(f) of the Internal Revenue Code"; and
- 4 strike beginning with "funds" in line 23 through "other" in line
- 5 24.
- 6 3. Renumber the remaining sections accordingly.

LEGISLATIVE BILL 298. Placed on General File as amended.
Standing Committee amendment to LB 298:
AM1254

- 1 1. On page 2, line 18, strike "Treatment" and insert
- 2 "Outpatient treatment".

LEGISLATIVE BILL 316. Placed on General File as amended.
Standing Committee amendment to LB 316:
AM1348

- 1 1. On page 3, strike beginning with "regardless" in line
- 2 26 through "consent" in line 27.
- 3 2 On page 4, strike beginning with "in" in line 1
- 4 through "Act" in line 2 and insert "as determined by the court" and
- 5 after "custody" insert "or joint physical custody"; in line 10
- 6 strike beginning with "include" through "specifies" and insert
- 7 "specify"; and in line 12 after "child" insert ". A decree may
- 8 include a parenting plan developed pursuant to the Parenting Act".

LEGISLATIVE BILL 438. Placed on General File as amended.
Standing Committee amendment to LB 438:
AM0790

- 1 1. On page 2, line 9, after "precursor" insert "or
- 2 reagent".
- 3 2. On page 3, line 11, after "(4)" insert "Any child or
- 4 vulnerable adult who resides with a person violating subsection (2)

5 or (3) of this section shall be taken into protective custody as
6 provided in the Adult Protective Services Act or the Nebraska
7 Juvenile Code.
8 (5)"; and in line 18 strike "(5)" and insert "(6)".

LEGISLATIVE BILL 495. Placed on General File as amended.
Standing Committee amendment to LB 495:
AM0659

1 1. On page 2, lines 16 and 17, strike "or one thousand
2 dollars, whichever is greater," and show as stricken.

LEGISLATIVE BILL 732. Placed on General File as amended.
Standing Committee amendment to LB 732:
AM1132

1 1. Strike the original sections and insert the following
2 new sections:
3 "Section 1. Section 76-239.01, Reissue Revised Statutes
4 of Nebraska, is amended to read:
5 76-239.01. (1) Any person, firm, or corporation lending
6 money for the purpose of financing the construction of improvements
7 on real property, to be secured by a mortgage filed of record, is
8 hereby required, before the disbursement of any proceeds under such
9 loan, to notify the borrower in writing, separate from any written
10 application, mortgage note, or any other loan document between the
11 lender and the borrower, that it is the responsibility of the
12 borrower or the borrower's contractor, if disbursements are to be
13 made to such contractor, to apply the loan proceeds to the payment
14 of lawful claims for labor and material furnished for such
15 improvements and that failure of the borrower or his or her
16 contractor to pay all lawful claims for labor and material could
17 result in the filing of construction liens against the property.
18 It shall be the duty of the contractor to whom any such
19 disbursement is made to make such application of the loan proceeds.
20 (2) A subcontractor and material supplier may request
21 from the contractor and the contractor shall supply a list of the
22 dates on which loan proceeds or funds of the borrower are disbursed
23 for lawful claims for labor and material furnished for improvements
24 on real property pursuant to subsection (1) of this section.
1 Sec. 2. (1) For purposes of this section, construction
2 contract means a written agreement for the construction,
3 alteration, repair, maintenance, moving, or demolition of any
4 building, structure, or improvement to land.
5 (2) Notwithstanding any contractual provision to the
6 contrary, construction contracts for improvements to real property
7 located in Nebraska that provide for the resolution of disputes by
8 suit, arbitration, or other proceeding shall require any suit,
9 arbitration, or other proceeding to be brought in Nebraska and be
10 governed by the laws of Nebraska.
11 (3) In any action brought to collect payments and

12 interest pursuant to any construction contract, the prevailing
13 party shall be awarded court costs and reasonable attorney's fees.
14 Sec. 3. Original section 76-239.01, Reissue Revised
15 Statutes of Nebraska, is repealed."

(Signed) Kermit A. Brashear, Chairperson

GENERAL FILE

LEGISLATIVE BILL 759. Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1330

Amend FA1326

On page 4, strike and show as stricken lines 15-21.

Pending.

SELECT COMMITTEE REPORT Enrollment and Review

LEGISLATIVE BILL 146. Placed on Select File as amended.
E & R amendment to LB 146:

AM7113

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 44-2825, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 44-2825. (1) The total amount recoverable under the
- 6 Nebraska Hospital-Medical Liability Act from any and all health
- 7 care providers and the Excess Liability Fund for any occurrence
- 8 resulting in any injury or death of a patient may not exceed (a)
- 9 five hundred thousand dollars for any occurrence on or before
- 10 December 31, 1984, (b) one million dollars for any occurrence after
- 11 December 31, 1984, and on or before December 31, 1992, ~~and~~ (c) one
- 12 million two hundred fifty thousand dollars for any occurrence after
- 13 December 31, 1992, and on or before December 31, 2003, and (d) one
- 14 million seven hundred fifty thousand dollars for any occurrence
- 15 after December 31, 2003.
- 16 (2) A health care provider qualified under the act shall
- 17 not be liable to any patient or his or her representative who is
- 18 covered by the act for an amount in excess of two hundred thousand
- 19 dollars for all claims or causes of action arising from any
- 20 occurrence during the period that the act is effective with
- 21 reference to such patient.
- 22 (3) Subject to the overall limits from all sources as
- 23 provided in subsection (1) of this section, any amount due from a
- 24 judgment or settlement which is in excess of the total liability of
- 1 all liable health care providers shall be paid from the Excess
- 2 Liability Fund pursuant to sections 44-2831 to 44-2833.

3 Sec. 2. Section 44-2827, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 44-2827. (1) Financial responsibility of a health care
6 provider may be established only by filing with the director proof
7 that the health care provider is insured pursuant to sections
8 44-2837 to 44-2839 or by a policy of professional liability
9 insurance in a company authorized to do business in Nebraska. Such
10 insurance shall be in the amount of two hundred thousand dollars
11 per occurrence and, in cases involving physicians or nurse
12 anesthetists, but not with respect to hospitals, an aggregate
13 liability of at least six hundred thousand dollars for all
14 occurrences or claims made in any policy year shall be provided.
15 In the case of hospitals and their employees, an aggregate
16 liability amount of one million dollars for all occurrences or
17 claims made in any policy year shall be provided. ~~Such filing~~
18 ~~shall state the amount of the premium charged for the policy of~~
19 ~~insurance.~~

20 (2) The filing required in subsection (1) of this section
21 shall be made by the insurer providing the professional liability
22 insurance to the health care provider and shall include the
23 following information:

24 (a) Name of the health care provider;
25 (b) Address of the health care provider;
26 (c) Whether the coverage is on an occurrence basis or a
27 claims-made basis or whether the coverage is a reporting
1 endorsement that covers for future reports of past occurrences;

2 (d) Coverage dates applying to the insurance;
3 (e) Requested effective dates of qualification;
4 (f) Premium paid by the health care provider for the
5 underlying insurance coverage necessary to qualify;
6 (g) Surcharge paid by the health care provider pursuant
7 to sections 44-2829 to 44-2831; and

8 (h) Any other information required by the director.
9 (3) The information reported to the director under
10 subsection (2) of this section shall not be subject to public
11 disclosure, except that in response to a request regarding a
12 specific health care provider for a specific date or range of
13 dates, the director shall disclose whether the health care provider
14 is qualified under the Nebraska Hospital-Medical Liability Act.

15 (4) The director shall adopt and promulgate notice
16 requirements for insurers to use in notifying policyholders of
17 their eligibility and the cost for qualification under the act.

18 Sec. 3. Section 44-2829, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 44-2829. (1) There is hereby created an Excess Liability
21 Fund to be collected and received by the director for the exclusive
22 use and purposes stated in the Nebraska Hospital-Medical Liability
23 Act. Such fund and any income from it shall be held by the State
24 Treasurer in trust, deposited in a separate account, and invested

25 and reinvested pursuant to law.

26 (2) To create the fund, an annual surcharge shall be
27 levied on all health care providers in Nebraska who have qualified
1 under sections 44-2824 and 44-2827. The surcharge for each health
2 care provider shall be determined by the director subject to the
3 following limitations:

4 (a) The annual surcharge shall not exceed fifty percent
5 of the annual premium paid by such health care provider for
6 maintenance of current financial responsibility as provided in
7 sections 44-2827 and 44-2837 to 44-2839; and

8 (b) The charge shall not exceed the amount necessary to
9 maintain the fund in the amount stated in section 44-2830.

10 (3) Such surcharge and any primary insurance premiums due
11 under sections 44-2837 to 44-2839 shall be due and payable within
12 thirty days after the health care provider has qualified in
13 Nebraska pursuant to section 44-2824 and shall be payable annually
14 thereafter in such amounts as may be determined by the director
15 insofar as the surcharge is concerned and by the risk manager
16 insofar as primary liability coverage is concerned. The insurer
17 which provides professional liability insurance to the health care
18 provider shall collect the surcharge from the provider and remit it
19 to the fund within thirty days after receipt.

20 (4) The net premiums payable for primary insurance
21 provided by the risk manager pursuant to sections 44-2837 to
22 44-2839 shall be deposited in the fund at least annually by the
23 risk manager.

24 (5) If the annual premium surcharge or premiums for
25 primary insurance under sections 44-2837 to 44-2839 are not paid to
26 the insurer within the time specified in subsection (3) of this
27 section, the qualification of the health care provider under
1 section 44-2824 shall be suspended until the annual premiums are
2 paid. Such suspension shall not be effective as to patients
3 claiming against the health care provider unless, at least thirty
4 days before the effective date of the suspension, a written notice
5 giving the date upon which the suspension becomes effective has
6 been provided by the director to the health care provider.

7 (6) The Director of Insurance, as administrator of the
8 fund, shall be responsible for legal defense of the fund. The
9 director, using money from the fund as deemed necessary,
10 appropriate, or desirable, may purchase the services of persons,
11 firms, and corporations to aid in protecting the fund against
12 claims. The Department of Justice shall not be responsible for
13 legal defense of the fund. All expenses of collecting, protecting,
14 and administering the fund shall be paid from the fund.

15 Sec. 4. Section 44-2831, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 44-2831. (1) The director may, at any time, analyze the
18 fund to determine if the amount in such fund is inadequate to pay
19 in full all claims allowed or to be allowed during the calendar

20 year. Upon such determination, the director shall have the power
21 to levy a special surcharge on all health care providers who have
22 qualified under the Nebraska Hospital-Medical Liability Act, which
23 special surcharge shall be an amount sufficient to permit full
24 payment of all claims allowed against the fund during a calendar
25 year. The special surcharge shall be levied against all health
26 care providers who have qualified under the Nebraska
27 Hospital-Medical Liability Act on the date of the special surcharge
1 or at any time during the preceding twelve months and shall be in
2 an amount proportionate to the surcharge each health care provider
3 has paid to the fund. Such special surcharge shall be due and
4 payable within thirty days after the same is levied. Such special
5 surcharge shall be collected by the health care provider's current
6 insurer if the health care provider is currently qualified or by
7 the health care provider's most recent insurer that provided
8 qualifying underlying coverage if the health care provider is no
9 longer qualified.

10 (2) The director shall have authority to cause all or any
11 part of the potential liability of the Excess Liability Fund to be
12 reinsured, if such reinsurance is available, on a fair and
13 reasonable basis. The cost of such reinsurance shall be paid by
14 the fund and the fact of the reinsurance shall be taken into
15 account in determining the surcharge as provided in sections
16 44-2829 and 44-2830, but in no event shall the surcharge exceed
17 fifty percent of the annual premium paid by a health care provider
18 for maintenance of current financial responsibility.

19 Sec. 5. Section 44-2840, Revised Statutes Supplement,
20 2002, is amended to read:

21 44-2840. (1) Provision is hereby made for the
22 establishment of medical review panels to review all malpractice
23 claims against health care providers covered by the Nebraska
24 Hospital-Medical Liability Act in advance of filing such actions.

25 (2) No action against a health care provider may be
26 commenced in any court of this state before the claimant's proposed
27 complaint has been presented to a medical review panel established
1 pursuant to section 44-2841 and an opinion has been rendered by the
2 panel.

3 (3) The proceedings for action by the medical review
4 panel shall be initiated by the patient or his or her
5 representative by notice in writing with copy of a proposed
6 complaint served upon the director personally or by registered or
7 certified mail. Such notice shall designate the claimant's choice
8 of the physician to serve on the panel, claimant's suggestion of an
9 attorney to serve, and the court where the action shall be filed,
10 if necessary.

11 (4) The claimant may affirmatively waive his or her right
12 to a panel review, and in such case the claimant may proceed to
13 file his or her action directly in court. If the claimant waives
14 the panel review, the claimant shall serve a copy of the complaint

15 upon the director personally or by registered or certified mail at
16 the time the action is filed in court.

17 ~~(5) The exercise of the waiver authorized by this section~~
18 ~~shall not be subject to attack for the sole reason that the~~
19 ~~claimant served the director with the notice prescribed by~~
20 ~~subsection (3) of this section prior to July 10, 1984, if the~~
21 ~~requirements of sections 44-2840 to 44-2847 have not been fulfilled~~
22 ~~on such date.~~

23 Sec. 6. Section 44-2842, Revised Statutes Supplement,
24 2002, is amended to read:

25 44-2842. (1) The evidence to be considered by the
26 medical review panel shall be promptly submitted by the respective
27 parties in written form only. If any party to the proceedings
1 fails to submit his or her evidence within a reasonable time after
2 notice from the panel requesting such evidence, the panel may
3 proceed to decide the matter on the evidence previously submitted.
4 The determination of reasonable time shall be made by the panel.
5 The evidence submitted may consist of medical charts, X-rays,
6 laboratory test results, excerpts of treatises, depositions of
7 witnesses including parties, and any other form of evidence
8 allowable by the medical review panel.

9 (2) Depositions of parties and witnesses may be taken
10 prior to the convening of the panel and prior to the commencement
11 of the action, but in such event the attorney for the medical care
12 provider shall be furnished with a copy of the complaint which the
13 claimant proposes to file at least ten days before any deposition
14 is taken. The patient shall have the right to request and receive
15 all medical and hospital records relating to his or her case which
16 would be admissible in evidence in a court of law. The chairperson
17 of the panel shall advise the panel relative to any legal question
18 involved in the review proceeding and shall prepare the opinion of
19 the panel. A copy of the evidence shall be sent to each member of
20 the panel.

21 (3) Either party, after submission of all evidence and
22 upon ten days' notice to the other side, shall have the right to
23 convene the panel at a time and place agreeable to the members of
24 the panel. At such time either party shall have the right to
25 present argument concerning any matters relevant to issues to be
26 decided by the panel before the issuance of its report. The
27 chairperson of the panel shall preside at all meetings, which
1 meetings shall be informal.

2 (4) If the members of the medical review panel have not
3 convened within six months of the initiation of the proceeding, the
4 judge ~~shall have authority to order the panel to convene~~ may
5 terminate the proceeding at the request of either party.

6 Sec. 7. (1) A person credentialed under the Uniform
7 Licensing Law to practice as a physician, osteopathic physician,
8 dentist, physician assistant, nurse, or physical therapist who,
9 without the expectation or receipt of monetary or other

10 compensation either directly or indirectly, provides professional
11 services eligible for reimbursement under the medical assistance
12 program established pursuant to sections 68-1018 to 68-1025 as a
13 volunteer in a free clinic or other facility operated by a
14 not-for-profit organization as defined in section 25-21,190, by an
15 agency of the state, or by any political subdivision shall be
16 immune from civil liability for any act or omission which results
17 in damage or injury unless such damage or injury was caused by the
18 willful or wanton act or omission of such practitioner.

19 (2) The individual immunity granted by subsection (1) of
20 this section shall not extend to any act or omission of such
21 practitioner which results in damage or injury if:

22 (a) The free clinic or other facility is operated by a
23 licensed hospital;

24 (b) The practitioner has been disciplined by the
25 professional board having oversight over that practitioner in the
26 previous five years at the time of the act or omission causing
27 injury; or

1 (c) The damage or injury is caused by such practitioner

2 (i) during the operation of any motor vehicle, airplane, or boat or

3 (ii) while impaired by alcohol or any controlled substance

4 enumerated in section 28-405.

5 Sec. 8. Original sections 44-2825, 44-2827, 44-2829, and
6 44-2831, Reissue Revised Statutes of Nebraska, and sections 44-2840
7 and 44-2842, Revised Statutes Supplement, 2002, are repealed.".

8 2. On page 1, strike beginning with "the" in line 1
9 through line 5 and insert "medical liability; to amend sections
10 44-2825, 44-2827, 44-2829, and 44-2831, Reissue Revised Statutes of
11 Nebraska, and sections 44-2840 and 44-2842, Revised Statutes
12 Supplement, 2002; to change provisions relating to recoverable
13 amounts, filing of proof of insurance, notice, surcharges, and
14 medical review panel proceedings under the Nebraska
15 Hospital-Medical Liability Act; to provide immunity for volunteer
16 medical personnel;".

(Signed) Ray Mossey, Chairperson

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LR 69, 70, 71, and 72 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LR 69, 70, 71, and 72.

VISITORS

Visitors to the Chamber were Senator Price's son, Ron, from Warren, Michigan; 26 fourth-grade students and teacher from Bloomfield Elementary School, Ralston; 18 fourth-grade students from Nemaha Valley School, Cook; 75 fourth-grade students and teachers from Wheeler Elementary School, Omaha; Senator Maxwell's father, niece, and nephew, Chuck, Mary, and Tim Maxwell from Omaha; and Senator Beutler's wife, Judy, from Lincoln, his mother, Dorothy, from Omaha, and his aunt, Myrt Arnold, from Omaha.

RECESS

At 11:57 a.m., on a motion by Senator McDonald, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

ROLL CALL

The roll was called and all members were present except Senators Hudkins and Jensen who were excused; and Senators Combs, Engel, Landis, Maxwell, and Price who were excused until they arrive.

SELECT COMMITTEE REPORTS**Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 97, 118, 149, 200, 235, 258, 307, 349, 354, 444, 464, 476, 480, 481, 494, 498, 510, 521, 548, 610, 701, and 707.

ER9050

Enrollment and Review Change to LB 464

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, lines 1 and 5, "corporations" has been struck and "business entities" inserted.

(Signed) Ray Mossey, Chairperson

STANDING COMMITTEE REPORT**Judiciary**

LEGISLATIVE BILL 43. Placed on General File as amended.

Standing Committee amendment to LB 43:

AM1246

- 1 1. Insert the following sections:
- 2 "Sec. 9. Section 28-101, Revised Statutes Supplement,
- 3 2002, is amended to read:
- 4 28-101. Sections 28-101 to 28-1348 and section 10 of
- 5 this act shall be known and may be cited as the Nebraska Criminal
- 6 Code.
- 7 Sec. 10. (1) For purposes of this section:
- 8 (a) Bodily injury has the same meaning as in section
- 9 28-109;
- 10 (b) Chemical substance means a substance intended to be
- 11 used as a precursor or reagent in the manufacture of
- 12 methamphetamine or any other chemical intended to be used in the
- 13 manufacture of methamphetamine. Intent for purposes of this
- 14 subdivision may be demonstrated by the substance's use, quantity,
- 15 manner of storage, or proximity to other precursors or
- 16 manufacturing equipment;
- 17 (c) Child means a person under the age of nineteen years;
- 18 (d) Methamphetamine means methamphetamine, its salts,
- 19 optical isomers, and salts of its isomers;
- 20 (e) Paraphernalia means all equipment, products, and
- 21 materials of any kind which are used, intended for use, or designed
- 22 for use in manufacturing, injecting, ingesting, inhaling, or
- 23 otherwise introducing methamphetamine into the human body;
- 24 (f) Prescription has the same meaning as in section
- 1 28-401;
- 2 (g) Serious bodily injury has the same meaning as in
- 3 section 28-109; and
- 4 (h) Vulnerable adult has the same meaning as in section
- 5 28-371.
- 6 (2) Any person who knowingly or intentionally causes or
- 7 permits a child or vulnerable adult to inhale or have contact with
- 8 methamphetamine, a chemical substance, or paraphernalia is guilty
- 9 of a Class I misdemeanor. For any second or subsequent conviction
- 10 under this subsection, any person so offending is guilty of a Class
- 11 IV felony.
- 12 (3) Any person who knowingly or intentionally causes or
- 13 permits a child or vulnerable adult to ingest methamphetamine, a
- 14 chemical substance, or paraphernalia is guilty of a Class I
- 15 misdemeanor. For any second or subsequent conviction under this
- 16 statute, any person so offending shall be guilty of a Class IIIA
- 17 felony.
- 18 (4) Any person who violates subsection (2) or (3) of this
- 19 section and a child or vulnerable adult actually suffers serious
- 20 bodily injury by ingestion of, inhalation of, or contact with
- 21 methamphetamine, a chemical substance, or paraphernalia is guilty
- 22 of a Class IIIA felony unless the ingestion, inhalation, or contact
- 23 results in the death of the child or vulnerable adult, in which

24 case the person is guilty of a Class IB felony.
25 (5) It is an affirmative defense to a violation of this
26 section that the chemical substance was provided by lawful
27 prescription for the child or vulnerable adult and that it was
1 administered to the child or vulnerable adult in accordance with
2 the prescription instructions provided with the chemical substance.
3 Sec. 12. Section 43-250, Revised Statutes Supplement,
4 2002, is amended to read:
5 43-250. ~~Am~~ A peace officer who takes a juvenile into
6 temporary custody under section 43-248 shall immediately take
7 reasonable measures to notify the juvenile's parent, guardian,
8 custodian, or relative and shall proceed as follows:
9 (1) The peace officer shall release such juvenile;
10 (2) The peace officer shall prepare in triplicate a
11 written notice requiring the juvenile to appear before the juvenile
12 court of the county in which such juvenile was taken into custody
13 at a time and place specified in the notice or at the call of the
14 court. The notice shall also contain a concise statement of the
15 reasons such juvenile was taken into custody. The peace officer
16 shall deliver one copy of the notice to such juvenile and require
17 such juvenile or his or her parent, guardian, other custodian, or
18 relative, or both, to sign a written promise that such signer will
19 appear at the time and place designated in the notice. Upon the
20 execution of the promise to appear, the peace officer shall
21 immediately release such juvenile. The peace officer shall, as
22 soon as practicable, file one copy of the notice with the county
23 attorney and, when required by the juvenile court, also file a copy
24 of the notice with the juvenile court or the officer appointed by
25 the court for such purpose;
26 (3) ~~The officer shall deliver the custody of such~~
27 ~~juvenile to the probation officer to determine whether the juvenile~~
1 ~~should be released from custody or placed in secure or nonsecure~~
2 ~~detention as defined in section 43-245. When secure detention of a~~
3 ~~juvenile is necessary, such detention shall occur within a juvenile~~
4 ~~detention facility except:~~ While retaining temporary custody, the
5 peace officer shall communicate all relevant available information
6 regarding such juvenile to the probation officer and shall deliver
7 the juvenile, if necessary, to the probation officer. The
8 probation officer shall determine the need for detention of the
9 juvenile as provided in section 43-260.01. Upon determining that
10 the juvenile should be placed in a secure or nonsecure placement
11 and securing placement in such secure or nonsecure setting by the
12 probation officer, the peace officer shall implement the probation
13 officer's decision to release or to detain and place the juvenile.
14 When secure detention of a juvenile is necessary, such detention
15 shall occur within a juvenile detention facility except:
16 (a) When a juvenile described in subdivision (1) or (2)
17 of section 43-247, except for a status offender, is taken into
18 temporary custody within a metropolitan statistical area and where

- 19 no juvenile detention facility is reasonably available, the
20 juvenile may be delivered, for temporary custody not to exceed six
21 hours, to a secure area of a jail or other facility intended or
22 used for the detention of adults solely for the purposes of
23 identifying the juvenile and ascertaining his or her health and
24 well-being and for safekeeping while awaiting transport to an
25 appropriate juvenile placement or release to a responsible party;
- 26 (b) When a juvenile described in subdivision (1) or (2)
27 of section 43-247, except for a status offender, is taken into
1 temporary custody outside of a metropolitan statistical area and
2 where no juvenile detention facility is reasonably available, the
3 juvenile may be delivered, for temporary custody not to exceed
4 twenty-four hours excluding nonjudicial days and while awaiting an
5 initial court appearance, to a secure area of a jail or other
6 facility intended or used for the detention of adults solely for
7 the purposes of identifying the juvenile and ascertaining his or
8 her health and well-being and for safekeeping while awaiting
9 transport to an appropriate juvenile placement or release to a
10 responsible party;
- 11 (c) Whenever a juvenile is held in a secure area of any
12 jail or other facility intended or used for the detention of
13 adults, there shall be no verbal, visual, or physical contact
14 between the juvenile and any incarcerated adult and there shall be
15 adequate staff to supervise and monitor the juvenile's activities
16 at all times. This subdivision shall not apply to a juvenile
17 charged with a felony as an adult in county or district court if he
18 or she is sixteen years of age or older;
- 19 (d) If a juvenile is under sixteen years of age or is a
20 juvenile as described in subdivision (3) of section 43-247, he or
21 she shall not be placed within a secure area of a jail or other
22 facility intended or used for the detention of adults;
- 23 (e) If, within the time limits specified in subdivision
24 (3)(a) or (3)(b) of this section, a felony charge is filed against
25 the juvenile as an adult in county or district court, he or she may
26 be securely held in a jail or other facility intended or used for
27 the detention of adults beyond the specified time limits;
- 1 (f) A status offender or nonoffender taken into temporary
2 custody shall not be held in a secure area of a jail or other
3 facility intended or used for the detention of adults. A status
4 offender accused of violating a valid court order may be securely
5 detained in a juvenile detention facility longer than twenty-four
6 hours if he or she is afforded a detention hearing before a court
7 within twenty-four hours, excluding nonjudicial days, and if, prior
8 to a dispositional commitment to secure placement, a public agency,
9 other than a court or law enforcement agency, is afforded an
10 opportunity to review the juvenile's behavior and possible
11 alternatives to secure placement and has submitted a written report
12 to the court; and
- 13 (g) A juvenile described in subdivision (1) or (2) of

14 section 43-247, except for a status offender, may be held in a
15 secure area of a jail or other facility intended or used for the
16 detention of adults for up to six hours before and six hours after
17 any court appearance;

18 (4) When a juvenile is taken into temporary custody
19 pursuant to subdivision (3) ~~or (4)~~ of section 43-248, the peace
20 officer ~~may~~ shall deliver the custody of such juvenile to the
21 Department of Health and Human Services which shall make a
22 temporary placement of the juvenile in the least restrictive
23 environment consistent with the best interests of the juvenile as
24 determined by the department. The department shall supervise such
25 placement and, if necessary, consent to any necessary emergency
26 medical, psychological, or psychiatric treatment for such juvenile.
27 The department shall have no other authority with regard to such
1 temporary custody until or unless there is an order by the court
2 placing the juvenile in the custody of the department. If the
3 peace officer delivers temporary custody of the juvenile pursuant
4 to this subdivision, the officer shall make a full written report
5 to the county attorney within twenty-four hours of taking such
6 juvenile into temporary custody. If a court order of temporary
7 custody is not issued within forty-eight hours of taking the
8 juvenile into custody, the temporary custody by the department
9 shall terminate and the juvenile shall be returned to the custody
10 of his or her parent, guardian, custodian, or relative; or

11 (5) If the peace officer takes the juvenile into
12 temporary custody pursuant to subdivision (4) of section 43-248,
13 the peace officer may place the juvenile at a mental health
14 facility for evaluation and emergency treatment or may deliver the
15 juvenile to the Department of Health and Human Services ~~pursuant to~~
16 as provided in subdivision (4) of this section. At the time of the
17 admission or turning the juvenile over to the department, the peace
18 officer responsible for taking the juvenile into custody shall
19 execute a written certificate as prescribed by the Department of
20 Health and Human Services which will indicate that the peace
21 officer believes the juvenile to be mentally ill and dangerous, a
22 summary of the subject's behavior supporting such allegations, and
23 that the harm described in section 83-1009 is likely to occur
24 before proceedings before a juvenile court may be invoked to obtain
25 custody of the juvenile. A copy of the certificate shall be
26 forwarded to the county attorney. The peace officer shall notify
27 the juvenile's parents, guardian, custodian, or relative of the
1 juvenile's placement.

2 In determining the appropriate temporary placement of a
3 juvenile under this section, the peace officer shall select the
4 placement which is least restrictive of the juvenile's freedom so
5 long as such placement is compatible with the best interests of the
6 juvenile and the safety of the community."

7 2. On page 16, line 21, after "sections" insert

8 "28-101,"; and in line 22 after the first comma insert "43-250,".

9 3. Renumber remaining sections accordingly.

(Signed) Kermit A. Brashear, Chairperson

GENERAL FILE

LEGISLATIVE BILL 759. The Chambers pending amendment, FA1330, found in this day's Journal, to the first Standing Committee amendment, FA1326, found in this day's Journal, was renewed.

Senator Chambers moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 18:

Baker	Janssen	Mines	Smith	Thompson
Chambers	Jones	Mossey	Stuhr	Vrtiska
Erdman	Kremer	Quandahl	Stuthman	
Friend	Louden	Redfield	Synowiecki	

Voting in the negative, 19:

Aguilar	Bromm	Cunningham	Pedersen, Dw.	Schrock
Beutler	Brown	Foley	Price	Tyson
Bourne	Byars	Kruse	Raikes	Wehrbein
Brashear	Connealy	Landis	Schimek	

Present and not voting, 7:

Burling	Hartnett	McDonald	Preister
Cudaback	Johnson	Pederson, D.	

Excused and not voting, 5:

Combs	Engel	Hudkins	Jensen	Maxwell
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The Chambers amendment lost with 18 ayes, 19 nays, 7 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Senator Hartnett asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1331

Amend FA1326

On page 4, strike and show as stricken lines 12-14.

Senator Chambers moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Senator Chambers requested a record vote on his amendment.

Voting in the affirmative, 17:

Chambers	Janssen	Mossey	Smith	Vrtiska
Cudaback	Kremer	Pedersen, Dw.	Stuhr	
Erdman	Louden	Quandahl	Stuthman	
Friend	Mines	Redfield	Thompson	

Voting in the negative, 18:

Aguilar	Byars	Kruse	Price	Tyson
Beutler	Connealy	Landis	Raikes	Wehrbein
Brashear	Foley	McDonald	Schimek	
Bromm	Jones	Pederson, D.	Schrock	

Present and not voting, 8:

Baker	Brown	Cunningham	Preister
Bourne	Burling	Johnson	Synowiecki

Excused and not voting, 6:

Combs	Hartnett	Jensen
Engel	Hudkins	Maxwell

The Chambers amendment lost with 17 ayes, 18 nays, 8 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Chambers offered the following amendment to the first Standing Committee amendment:

FA1332

Amend FA1326

On page 5 in lines 3 and 4 strike and show as stricken "and continuing until October 1, 2004,"

Senator Bourne asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Chambers moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Aguilar	Chambers	Janssen	Mossey	Stuthman
Baker	Cudaback	Jones	Raikes	Thompson
Brown	Erdman	Louden	Redfield	Vrtiska
Burling	Friend	McDonald	Smith	

Voting in the negative, 20:

Beutler	Connealy	Kremer	Pedersen, Dw.	Schrock
Brashear	Cunningham	Kruse	Pederson, D.	Synowiecki
Bromm	Foley	Landis	Price	Tyson
Byars	Johnson	Mines	Schimek	Wehrbein

Present and not voting, 4:

Combs	Preister	Quandahl	Stuhr
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Excused and not voting, 6:

Bourne	Hartnett	Jensen
Engel	Hudkins	Maxwell

The Chambers amendment lost with 19 ayes, 20 nays, 4 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senator Foley asked unanimous consent to be excused until he returns. No objections. So ordered.

Senator Thompson offered the following amendment to the first Standing Committee amendment:
AM1448

(Amendments to Standing Committee amendments, FA1326)

- 1 1. On page 3, strike line 15, show as stricken, and
- 2 insert "The"; and in lines 17 and 19 strike "five-sevenths of" and
- 3 show as stricken.

The Thompson amendment was adopted with 26 ayes, 0 nays, 16 present and not voting, and 7 excused and not voting.

Senator Quandahl offered the following amendment to the first Standing Committee amendment:
AM1449

(Amendments to Standing Committee amendments, FA1326)

1 1. Strike section 1 and insert the following new
2 section:
3 "Section 1. Section 77-2602, Revised Statutes
4 Supplement, 2002, is amended to read:
5 77-2602. (1) Every person engaged in distributing or
6 selling cigarettes at wholesale in this state shall pay to the Tax
7 Commissioner of this state a special privilege tax. This shall be
8 in addition to all other taxes. It shall be paid prior to or at
9 the time of the sale, gift, or delivery to the retail dealer in the
10 several amounts as follows: On each package of cigarettes
11 containing not more than twenty cigarettes, sixty-four cents per
12 package; ~~until October 1, 2004, and thirty-four cents per package~~
13 ~~commencing October 1, 2004;~~ and on packages containing more than
14 twenty cigarettes, the same tax as provided on packages containing
15 not more than twenty cigarettes for the first twenty cigarettes in
16 each package and a tax of one-twentieth of the tax on the first
17 twenty cigarettes on each cigarette in excess of twenty cigarettes
18 in each package. ~~Commencing July 1, 1994, and continuing until~~
19 ~~July 1, 2009, the~~ The State Treasurer shall place the equivalent of
20 ~~twenty-one cents of such tax less three million dollars each fiscal~~
21 ~~year of proceeds of such tax in the General Fund. Commencing July~~
22 ~~1, 2009, the State Treasurer shall place the equivalent of~~
23 ~~twenty-one cents of such tax in the General Fund. For purposes of~~
24 ~~this section, the equivalent of a specified number of cents of the~~
25 ~~tax shall mean that portion of the proceeds of the tax equal to the~~
26 ~~specified number divided by the tax rate per package of cigarettes~~
27 ~~containing not more than twenty cigarettes. The State Treasurer~~
28 ~~shall distribute the remaining proceeds of such tax in the~~
29 ~~following order:~~
30 (a) First, beginning July 1, 1980, the State Treasurer
31 shall place the equivalent of one cent of such tax in the Nebraska
32 Outdoor Recreation Development Cash Fund. For fiscal year
33 distributions occurring after FY1998-99, the distribution under
34 this subdivision shall not be less than the amount distributed
35 under this subdivision for FY1997-98. Any money needed to increase
36 the amount distributed under this subdivision to the FY1997-98
37 amount shall reduce the distribution to the General Fund;
38 (b) Second, beginning July 1, 1993, the State Treasurer
39 shall place the equivalent of three cents of such tax in the
40 Department of Health and Human Services Finance and Support Cash
41 Fund to carry out sections 81-637 to 81-640. For fiscal year
42 distributions occurring after FY1998-99, the distribution under
43 this subdivision shall not be less than the amount distributed
44 under this subdivision for FY1997-98. Any money needed to increase
45 the amount distributed under this subdivision to the FY1997-98
46 amount shall reduce the distribution to the General Fund;
47 (c) Third, beginning July 1, 2001, and continuing until
48 October 1, 2002, the State Treasurer shall place the equivalent of
49 five cents of such tax in the Building Renewal Allocation Fund.

27 Beginning October 1, 2002, and continuing until October 1, 2004,
1 the State Treasurer shall place the equivalent of seven cents of
2 such tax in the Building Renewal Allocation Fund. Beginning
3 October 1, 2004, and continuing until all the purposes of the
4 Deferred Building Renewal Act have been fulfilled, the State
5 Treasurer shall place the equivalent of five cents of such tax in
6 the Building Renewal Allocation Fund. The Legislature shall
7 appropriate each fiscal year all sums inuring to the fund, plus
8 interest earnings for the Task Force for Building Renewal to be
9 used to carry out its duties and to fulfill the purposes of the
10 Deferred Building Renewal Act. Unexpended balances existing at the
11 end of each fiscal year shall be, and are hereby, reappropriated.
12 For fiscal year distributions occurring after FY1998-99, the
13 distribution under this subdivision shall not be less than
14 five-sevenths of the amount distributed under this subdivision for
15 FY1997-98. Any money needed to increase the amount distributed
16 under this subdivision to five-sevenths of the FY1997-98 amount
17 shall reduce the distribution to the General Fund;
18 (d) Fourth, until October 1, 2002, and beginning on
19 October 1, 2004, the State Treasurer shall place the difference
20 between the equivalent of thirteen cents of such tax and the sum of
21 the amounts distributed pursuant to subdivisions (a) through (e)
22 and (f) through (h) of this subsection in a special fund to be
23 known as the Nebraska Capital Construction Fund. Beginning October
24 1, 2002, and continuing until October 1, 2004, the State Treasurer
25 shall place the difference between the equivalent of forty-three
26 cents of such tax and the sum of the amounts distributed pursuant
27 to subdivisions (a) through (e) and (f) through (i) of this
1 subsection in the Nebraska Capital Construction Fund;
2 (e) Fifth, beginning July 1, 1994, and continuing until
3 July 1, 2009, the State Treasurer shall place in the Municipal
4 Infrastructure Redevelopment Fund the sum of three million dollars
5 each fiscal year to carry out the Municipal Infrastructure
6 Redevelopment Fund Act. The Legislature shall appropriate the sum
7 of three million dollars each year for fiscal year 1994-95 through
8 fiscal year 2008-09;
9 (f) Sixth, beginning July 1, 2001, the State Treasurer
10 shall place the equivalent of two cents of such tax in the
11 Information Technology Infrastructure Fund;
12 (g) Seventh, beginning July 1, 2001, and continuing until
13 June 30, 2016, the State Treasurer shall place one million dollars
14 each fiscal year in the City of the Primary Class Development Fund.
15 If necessary, the State Treasurer shall reduce the distribution of
16 tax proceeds to the General Fund pursuant to this subsection by
17 such amount required to fulfill the one million dollars to be
18 distributed pursuant to this subdivision;
19 (h) Eighth, beginning July 1, 2001, and continuing until
20 June 30, 2016, the State Treasurer shall place one million five
21 hundred thousand dollars each fiscal year in the City of the

22 Metropolitan Class Development Fund. If necessary, the State
 23 Treasurer shall reduce the distribution of tax proceeds to the
 24 General Fund pursuant to this subsection by such amount required to
 25 fulfill the one million five hundred thousand dollars to be
 26 distributed pursuant to this subdivision; and
 27 (i) Ninth, beginning October 1, 2002, and continuing
 1 until October 1, 2004, the State Treasurer shall place the
 2 equivalent of twenty-eight cents of such tax in the Cash Reserve
 3 Fund.
 4 (2) The Legislature hereby finds and determines that the
 5 projects funded from the Municipal Infrastructure Redevelopment
 6 Fund and the Building Renewal Allocation Fund are of critical
 7 importance to the State of Nebraska. It is the intent of the
 8 Legislature that the allocations and appropriations made by the
 9 Legislature to such funds or, in the case of allocations for the
 10 Municipal Infrastructure Redevelopment Fund, to the particular
 11 municipality's account not be reduced until all contracts and
 12 securities relating to the construction and financing of the
 13 projects or portions of the projects funded from such funds or
 14 accounts of such funds are completed or paid or, in the case of the
 15 Municipal Infrastructure Redevelopment Fund, the earlier of such
 16 date or July 1, 2009, and that until such time any reductions in
 17 the cigarette tax rate made by the Legislature shall be
 18 simultaneously accompanied by equivalent reductions in the amount
 19 dedicated to the General Fund from cigarette tax revenue. Any
 20 provision made by the Legislature for distribution of the proceeds
 21 of the cigarette tax for projects or programs other than those to
 22 (a) the General Fund; (b) the Nebraska Outdoor Recreation
 23 Development Cash Fund; (c) the Department of Health and Human
 24 Services Finance and Support Cash Fund; (d) the Municipal
 25 Infrastructure Redevelopment Fund; (e) the Building Renewal
 26 Allocation Fund; (f) the Information Technology Infrastructure
 27 Fund; (g) the City of the Primary Class Development Fund; (h) the
 1 City of the Metropolitan Class Development Fund; and (i) the Cash
 2 Reserve Fund shall not be made a higher priority than or an equal
 3 priority to any of the programs or projects specified in
 4 subdivisions (a) through (i) of this subsection."

SPEAKER BROMM PRESIDING

Senator Schrock asked unanimous consent to be excused. No objections. So ordered.

Senator Jones moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 1 nay, and 22 not voting.

Senator Chambers moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Senator Mines requested a roll call vote on the Quandahl amendment.

Voting in the affirmative, 19:

Aguilar	Cudaback	Jones	Quandahl	Stuthman
Baker	Erdman	Louden	Redfield	Thompson
Chambers	Friend	Mines	Smith	Vrtiska
Combs	Janssen	Mossey	Stuhr	

Voting in the negative, 22:

Beutler	Byars	Kremer	Pederson, D.	Tyson
Brashear	Connealy	Kruse	Price	Wehrbein
Bromm	Cunningham	Landis	Raikes	
Brown	Foley	McDonald	Schimek	
Burling	Johnson	Pedersen, Dw.	Synowiecki	

Present and not voting, 2:

Maxwell	Preister
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Excused and not voting, 6:

Bourne	Hartnett	Jensen
Engel	Hudkins	Schrock

The Quandahl amendment lost with 19 ayes, 22 nays, 2 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Senators Janssen and Vrtiska offered the following amendment to the first Standing Committee amendment:

FA1333

Amend FA1326

On page 4 strike and show as stricken lines 22-27 and page 5 lines 1 and 2.

Senator Price asked unanimous consent to be excused. No objections. So ordered.

The Janssen-Vrtiska amendment lost with 11 ayes, 15 nays, 16 present and not voting, and 7 excused and not voting.

Pending.

AMENDMENTS - Print in Journal

Senator Jensen filed the following amendments to LB 303:

AM1431

(Amendments to E & R amendments, AM7100)

- 1 1. On page 17, line 6, after "above" insert "the top
2 of".

AM1436

(Amendments to E & R amendments, AM7100)

- 1 1. On page 17, line 4, strike "glasses" and insert "an
2 eye-protective device of a type approved by the department"; and in
3 line 5 strike "goggles".

AM1434

(Amendments to E & R amendments, AM7100)

- 1 1. On page 16, line 3, strike "subsections (2) and (3)"
2 and insert "subsection (2)"; and strike beginning with "Except" in
3 line 17 through "a" in line 18 and insert "A".
4 2. On page 17 strike beginning with "A" in line 7
5 through "(4)" in line 11.

AM1432

(Amendments to E & R amendments, AM7100)

- 1 1. On page 17, line 21, strike "minimum" and show as
2 stricken.

AM1433

(Amendments to E & R amendments, AM7100)

- 1 1. On page 19, lines 13 and 16, strike "minimum" and
2 show as stricken.

VISITORS

Visitors to the Chamber were 48 fifth- and sixth-grade students and teachers from Kenesaw; 50 fourth-grade students, teachers, and sponsors from Arbor Park Elementary School, Blair; and the Backstrom family from Langsruide, Sweden.

ADJOURNMENT

At 5:04 p.m., on a motion by Senator Thompson, the Legislature adjourned until 9:00 a.m., Wednesday, April 23, 2003.

Patrick J. O'Donnell
Clerk of the Legislature